

Before the  
Administrative Hearing Commission  
State of Missouri



MORGAN WINN,

Petitioner,

vs.

DIRECTOR, DEPARTMENT OF  
INSURANCE, FINANCIAL INSTITUTIONS,  
AND PROFESSIONAL REGISTRATION,

Respondent.

No. 13-0489 DI

**DECISION**

We find that Morgan Winn is not entitled to an insurance producer license because he got caught sexting pictures of his genitals to a little girl and therefore lacks the moral character to be an insurance producer.

**Procedure**

Winn filed his complaint on March 26, 2013. The Director of the Department of Insurance, Financial Institutions, and Professional Registration (“the Director”) filed his answer on April 25, 2013. The Director filed a motion for summary decision on August 12, 2013. We allowed Winn until August 27, 2013, to file a response. Winn did not do so.

**Findings of Fact**

1. Winn electronically filed his application for a resident individual producer license on October 12, 2012.
2. The application asked Winn if he had ever been convicted of a crime. Winn answered yes.

3. Winn attached to his application a “charge sheet” and a “report of result of trial” from the United States Air Force.
4. On February 13, 2013, the Director issued an order denying Winn’s application.

#### Winn’s Charges and Convictions

5. On March 4, 2010, Winn was charged with three specifications of violating the Uniform Code of Military Justice (“UCMJ”), Article 134:
  - a. Between July 1, 2007, and September 20, 2007, Winn committed an indecent act with a minor by sending her digital photos of his genitals, which the minor viewed.
  - b. Between July 1, 2007, and September 20, 2007, Winn exposed his genitals to public view by sending the minor an electronic communication when Winn knew that the minor’s mother monitored the minor’s e-mail account.
  - c. Between July 1, 2007, and September 20, 2007, Winn violated 18 U.S.C. §1470 by using means of interstate commerce to knowingly transfer obscene materials to a minor under sixteen years of age. Winn did so by sending the minor digital photos of his genitals over the Internet.
6. Winn pled not guilty to those specifications.
7. Winn was convicted of all three specifications in a general court-martial.
8. On August 4, 2010, Winn was sentenced to twelve months’ confinement, bad conduct discharge, total forfeiture of pay, and reduction of rank.

#### The Details of Winn’s Crimes

9. In 2007, Winn sent a picture of his naked erect penis to a 13-year-old minor.

Winn sent the picture from his cell phone to the minor's personal e-mail account.

10. At the time he sent the picture, Winn was 19.

11. Winn sent the picture in order to "test the waters" for further sexual activity with the minor.

### **Conclusions of Law**

We have jurisdiction over this case.<sup>1</sup> We may grant summary decision to the Director if the Director sets out undisputed facts that entitle him to a favorable decision.<sup>2</sup>

Section 375.141 states: "The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes: ... (6) Having been convicted of a felony or crime involving moral turpitude[.]" The Director argues that Winn's crimes were crimes of moral turpitude.

The statute does not define "moral turpitude," but the concept exists in other disciplinary contexts and has been examined by Missouri courts. For example, in attorney disciplinary cases, the Supreme Court has "long defined moral turpitude as 'baseness, vileness, or depravity' or acts 'contrary to justice, honesty, modesty or good morals.'" *In re Duncan*, 844 S.W.3d 443, 444 (Mo. 1993)(internal citations and quotations omitted). *See also Brehe v. Mo. Dep't of Elem. and Secondary Educ.*, 213 S.W.3d 720, 725 (Mo. App. W.D. 2007)(same definition used in discipline of teaching certificate).

Not all criminal acts are acts of moral turpitude. *Brehe*, 213 S.W.3d at 725. Missouri courts have examined several types of criminal acts in license discipline cases and held that

---

<sup>1</sup> Section 374.051.1. Citations are to the 2012 Cumulative Supplement to the Missouri Revised Statutes unless otherwise noted.

<sup>2</sup> 1 CSR 15-3.446(6)(A).

certain ones always constitute acts of moral turpitude, others may, and some never do. In *Brehe*, the court explained there are three categories of crimes:

1. crimes that necessarily involve moral turpitude, such as fraud (so-called “Category 1” crimes);
2. crimes “so obviously petty that conviction carries no suggestion of moral turpitude,” such as illegal parking (“Category 2” crimes); and
3. crimes that “may be saturated with moral turpitude,” yet do not necessarily involve it, such as willful failure to pay income tax or refusal to answer questions before a congressional committee (“Category 3” crimes).

213 S.W.3d at 725 (*quoting Twentieth Century Fox Film Corp. v. Lardner*, 216 F.2d 844, 852 (9<sup>th</sup> Cir. 1954)).

We find that the first and third specifications are crimes of moral turpitude. In both of those crimes, Winn sent a picture of his erect penis to a 13-year-old in order to “test the waters” sexually.<sup>3</sup> We find that sending sexually explicit pictures to a 13-year-old, with the intent of determining whether further sexual contact is possible, is baseless, vile, depraved, and contrary to good morals. Winn’s actions are unacceptable in society. Winn’s crimes are Category 1 crimes and therefore necessarily involve moral turpitude.

Section 374.051 states that “the director shall retain discretion in refusing a license or renewal and such discretion shall not transfer to the administrative hearing commission.” Thus, when the Director chooses to deny a license, we must ratify the Director’s decision when there is any cause to deny the issuance of a license. Winn’s commission of two crimes of moral turpitude constitutes cause to deny Winn a license.<sup>4</sup> We therefore find that Winn is not entitled to an insurance producer license.

---

<sup>3</sup>Ex. 2 at 8.

<sup>4</sup> We need not consider whether the second specification, Winn’s public posting of a picture of his genitals, is a crime of moral turpitude because his other two convictions are crimes of moral turpitude and provide sufficient cause to deny him a license.

### **Summary**

Winn is not entitled to an insurance producer license. We cancel the hearing.

SO ORDERED on August 30, 2013.

*\s\ Nimrod T. Chapel, Jr.*

NIMROD T. CHAPEL, JR.

Commissioner